

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE 35 TELEPHONE COMPANY, d/b/a INTERSTATE COMMUNICATIONS, and SOUTHWEST TELEPHONE EXCHANGE INC., d/b/a INTERSTATE COMMUNICATIONS	DOCKET NO. DRU-02-4
--	---------------------

**ORDER SETTING SCHEDULE FOR FILING OF
POSITION STATEMENTS**

(Issued September 19, 2002)

On August 20, 2002, Interstate 35 Telephone Company, d/b/a Interstate Communications, and Southwest Telephone Exchange Inc., d/b/a Interstate Communications (collectively "Interstate"), filed a petition for declaratory order requesting that the Utilities Board (Board) declare that the exemption from rate regulation for incumbent local exchange carriers having fewer than 15,000 customers and fewer than 15,000 access lines contained in Iowa Code § 476.1¹ is not impaired or adversely impacted by § 476.11. Further, Interstate requested the Board confirm that rates for exchange access services provided by carriers having fewer than 15,000 customers and fewer than 15,000 access lines are exempt from rate regulation pursuant to § 476.1.

Interstate presented the following specific questions for consideration:

1. Is the exemption from rate regulation by the Board contained in Iowa Code Section 476.1 for ILECs having fewer than 15,000 customers and fewer than 15,000 access lines impaired or adversely impacted by the Board's authority under Iowa Code Section 476.11 to regulate "terms and procedures" for toll communications; and

2. Are the rates for exchange access services provided by ILECs having fewer than 15,000 customers and fewer than 15,000 access lines exempt under Section 476.1 from rate regulation by the Board?

A petition to intervene was filed by Qwest Corporation (Qwest) on September 3, 2002. A motion for leave to file response, response to the petition for declaratory order, and motion to dismiss or consolidate was filed by AT&T Communications of the Midwest, Inc. (AT&T), on September 12, 2002.

In its response, AT&T notes that it filed a complaint and petition for rule making with the Board on July 12, 2002. In that complaint, AT&T requested the Board (a) determine, pursuant to § 476.3, the reasonableness of the rates and charges of certain telecommunications providers of switched access services, (b) determine the terms and procedures for interchange of toll communications pursuant to § 476.11, and (c) initiate a rule making to change the rate for the carrier common line charge for intrastate switched access services prescribed by administrative rule 199 IAC 22.14(2)(d)(1) from three cents per minute to zero. The Board docketed the

¹ All references will be to the Iowa Code (2001) unless otherwise indicated.

complaint and suspended action on the petition for rule making by order issued August 21, 2002.²

The Board agrees with AT&T's statement that in order to reach the substantive merits of AT&T's complaint, the Board will first have to determine that it has jurisdiction and authority to do so. However, while AT&T claims this should be used as a rationale to dismiss the petition for declaratory order, the Board sees it as a more efficient use of its resources to determine the scope of its jurisdiction in this proceeding prior to setting a schedule in the complaint docket.

Pursuant to § 17A.9(5)(b), the Board will set this matter for further consideration and will prescribe a schedule for the filing of position statements and legal support for those statements. The Board will direct its Executive Secretary to mail a copy of this order to each person listed on Exhibit A as filed by AT&T in its complaint (FCU-02-14). As the Board did in its August 21, 2002, order in the complaint docket, the Board encourages the various independent local exchange carriers to consider coordinating and consolidating their participation in this matter to the maximum extent possible.

² In re: AT&T Communications of the Midwest, Inc. v. Iowa Telecommunications Association, et al., Docket Nos. FCU-02-14 and RMU-02-8, "Order Docketing Complaint and Petition for Rule Making, Suspending Petition, and Establishing Preliminary Schedule," issued August 21, 2002.

IT IS THEREFORE ORDERED:

1. The questions and issues raised by Interstate 35 Telephone Company, d/b/a Interstate Communications, and Southwest Telephone Exchange, Inc., d/b/a Interstate Communications, in the August 20, 2002, petition for declaratory order will be considered by the Board pursuant to the schedule set forth in this order.
2. The petition for intervention filed by Qwest Corporation on September 3, 2002, is granted. Although not specifically requested, the Board deems AT&T to be an intervener in this docket by virtue of its response and request that the petition for declaratory order be dismissed.
3. The Executive Secretary of the Board is directed to mail a copy of this order to each person listed on Exhibit A as filed by AT&T in its complaint in Docket No. (FCU-02-14).
4. Any person desiring to intervene in this docket, who has not already been granted intervention, shall file a petition to intervene on or before September 30, 2002.
5. The following procedural schedule is established for this proceeding:
 - a. All parties shall file a statement of its position, and the legal argument and support for that position, to the questions presented by Interstate for determination by the Board. All statements and legal argument shall be filed on or before September 30, 2002.

b. Any responses to the initial statements of position shall be filed
on or before October 7, 2002.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 19th day of September, 2002.